

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 30 AUG 2005

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Applicant's or agent's file reference 12493692	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AU2004/001316	International filing date (<i>day/month/year</i>) 24 September 2004	Priority date (<i>day/month/year</i>) 24 September 2003
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A61M 15/00		
Applicant MEDI-STREAM PTY LTD et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☒ (*sent to the applicant and to the International Bureau*) a total of 6 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report
☐ Box No. II Priority
☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐ Box No. IV Lack of unity of invention
☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☒ Box No. VI Certain documents cited
☐ Box No. VII Certain defects in the international application
☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 21 July 2005	Date of completion of the report 16 August 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer KAREN VIOLANTE Telephone No. (02) 6283 7933

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1 (b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 1-5, 7-30 as originally filed/furnished

pages* 6, 6A-6B received by this Authority on 21 July 2005 with the letter of 21 July 2005

pages* received by this Authority on with the letter of

☒ the claims:

pages as originally filed/furnished

pages* as amended (together with any statement) under Article 19

pages* 1-3 received by this Authority on 21 July 2005 with the letter of 21 July 2005

pages* received by this Authority on with the letter of

☒ the drawings:

pages 1/30 - 30/30 as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 1-22	YES
	Claims	NO
Inventive step (IS)	Claims 1-22	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-22	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)**NOVELTY Claims 1-22:**

The invention defined in claims 1-22 is novel, as none of the cited prior art discloses a portable medication holder for holding a medication container and discharging a liquid agent therefrom, the portable medication holder comprising: a housing including a first wall forming a chamber or part thereof; an air pathway passing through the chamber; a second wall engaging the first wall, and moveable between a closed position in which the chamber and air pathway are sealed and an open position in which the air pathway is open; evaporation means to assist in evaporation of the liquid agent into air in the air pathway; a medication discharge chute for directing the air pathway to a user; and opening means for opening the medication container and releasing the liquid agent to the evaporation means.

INVENTIVE STEP Claims 1-22:

The subject matter of these claims is not rendered obvious in view of the teachings of any prior art documents taken in combination or in combination with common general knowledge.

INDUSTRIAL APPLICABILITY:

All claims have industrial applicability.